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Analysis of the national child and youth welfare system in contribution to the promotion of intercultural co-operation

Abstract:
The co-operative partnership of different nations in the area of child protection enables the analysis and systematic comparison of their respective national assistance systems. Such assistance systems are highly complex structures that can only be understood in the context of each country's specific historical development. Co-operation between different countries is subsequently helpful, because it encourages examination of what has fundamentally shaped their respective national child protection systems. What are the really formative elements in these assistance systems? Which elements come into consideration when a system needs to be comprehensively understood for comparison with another national assistance system? This article presents, one after the other, four such levels at which the systems can be observed. This is intended to promote recognition when comparing the systems from different national child protection models. The elements for analysis which underlie the German child and youth assistance systems are briefly made concrete so that, on this basis, clarification in the observation of the child and youth systems of other nations follows.

Key terms: child protection, child and youth assistance systems in comparative research, comparison of countries, comparison of systems.

Introduction

In the following article, I present a succession of four steps of analysis, through which a particular, nationally-specific child and youth welfare system is characterised - at least in its fundamental structural principles – and prepared for the following more thorough observation and analysis. The four steps of analysis take on concrete form in the body of this contribution through the example of the German child and youth welfare system:

1. Question to be analysed: which fundamental structural principles constitute the system?
2. Question to be analysed: how flexibly does the system react to continuously occurring individual and social change?
3. Question to be analysed: How is the actual nucleus of the welfare system, understood as the exchange between the receivers and givers of welfare, conceptually and technically organised?
4. Question to be analysed: Is the system established as a learning system, which has immediate access to scholarship and research, so that it can also set itself up and renew itself independently from its state constitution?

Which fundamental structural principles constitute the system?

Basic organization

The decisive legal fundament of the German youth welfare system is the social law book VIII (SGB) – the child and youth welfare law. Its fundamental program is disclosed by the law in its very first sentences, which in § 1 state:

(1) "Every young person has the right to supported development and to an upbringing that will make him into a self-responsible and socially adept personality.
(2) It is the natural right of parents to care for and raise their children and their primary duty. The state apparatus watches over them to make sure this duty is fulfilled."

In contrast to traditional society, in modern society every child's upbringing determines the course of his future life. The state recognises the existential necessity of child-raising and secures it through the law. However, the state does not designate itself as the one responsible for the child's right to be brought up. Instead, it points to parents, since "It is the natural right of parents to care for and raise their children."

The reason for this is the supposition that when it comes down to it, parents alone have a fundamental and lasting interest in the development, support and upbringing of their children. This parental right corresponds indivisibly with a duty to raise and support their children, in which they are watched over by the state. The justification for this is that the democratic rights granted to the individual by the state can never be seen as purely for the individual's benefit, but always incorporates the benefit of others. The supervision practiced by the so-called office of state watchman is "a constitution which puts personal worth at the centre of its value system. It can not, in the regulation of interpersonal relationships, grant someone rights over anyone else when this person is not at the same time duty-bound to respect the value of the other person." (Reinhold Schone: Hilfe und Kontrolle. In: Handbuch Kinder- und Jugendhilfe. Hg. Von Wolfgang Schröer, Norbert Struck und Mechthild Wolff. Weinheim und München 2002, S. 946).

The basis for decisions

In the German legal system, two important pre-requisites are irrefutably decreed. These concern individual contributions to the services and operations of child and youth welfare. Apart from its responsibility for school and education, the state does not claim an independent right to raise children and teenagers – it positions itself after the right of parents, who have precedence. In this way the focus of state involvement moves from a material content to the task of fundamentally securing a relationship between parents and their children in which child-raising by parents takes place in a self-responsible way.

In the German social state model, this basic model for the allocation of tasks between parents and state is already laid down in the constitution. In this way, according to the law, independent freedom of movement for the upbringing and support of children and teenagers is ensured. The state may only interfere in this when legally empowered and

only then on the basis of a previously established procedure (principle of the lawfulness of the administration).

How flexibly does the system react to continuously occurring individual and social change?

The rules for separation and divorce

The construction of a child-raising system which is built up around the relationship between children and their parents needs to take account of continuous social and individual change, not only selectively, but fundamentally. As soon as a system which is guaranteed by the super-individual capability of state power ceases to change, it is in danger of being blown apart by the power of the variety of its members. The prevailing separation and divorce laws in comprehensive family law in a particular society can be more closely examined to, for example, test the flexibility of a state's child and youth welfare system. The foundations of the child-raising system, which are after all based on the co-habitation of children and their parents, have been affected by the increasing separation and divorce rates in virtually all western industrial countries. One must ask whether, and in which way, a state power reacts to the signs of life of its society members or if it holds onto previously established principles in spite of current realities.

Using the example of the child law reform which caused considerable fundamental amendment in the legal position of children in the federal republic of Germany when it came into effect in 1998, this article outlines the fundament of legal provisions in cases of separation and divorce in the German legal and youth welfare system. In pursuit of this, the following table contrasts characteristics of previously valid provisions ("old law") with the changed situation since 1998 ("new law"):

Table 1
Overview: The new divorce law in contrast to previous provisions

Old law	New law
Institutional conception of the family	Marriage as a contract
Divorce as fundamental life change	Divorce as a transitory life event
Divorce creates a ‚remaining family'	Divorce is independent from the continuation of the most important parental connections for the child
Divorce as a "forced contract": parental care is decided upon	„Shared parental care" is normally not the point of the legal procedure, since it is laid down by the law in advance
Divorce means mostly the termination of important	The execution of parental care by a pair is viewed as a special case, the shared parental role remains for a

relationships for the child	lifetime
A judge decides which parent is given custody	„Shared custody" is most common and in the cases where this is not instituted, both parents establish, to a great degree autonomously in a common decision process, who gets custody
The role of the professional in a divorce procedure: the child is (normally) heard in court, the youth office produces a social-pedagogic report, the judge decides	Changed roles of the professionals: the child is (normally) not heard, the agreement worked out by the parents counts as a criterion for the child's wellbeing, the youth office offers counselling, the judge can suspend the process for the purpose of the parents coming to an agreement with the offered support of psychological-social counselling, the judge is then involved through the agreement attained with the aid of counselling

Source: Author's study.

Even the revision of the relationship law expresses the changed basis: "In many cases the child does not live with his parents or only with one parent. The law perceives this as a potential disruption to the parent-child relationship because a lack of contact between the child and his father or mother could lead to alienation between them. § 1626 III 1 states on this point that, as a rule, the well-being of the child requires a relationship with both parents. As a result, a formal law regulates the relationship of the child with both parents..." (Dieter Schwab: Familienrecht (Family law). 11. Auflage. München 2001, S. 321).

Furthermore, it is worth looking at a comparison of children born in- and outside of marriage, as well as introducing the legal figure of the "procedure carer", who was another result of the child rights legal reform coming into force in the German legal system. The procedure carer is called upon as "lawyer of the child" by the judge in cases where the procedure in the family and guardianship court involves great dissent. He is assigned to the child for the course of the procedure with the central task of representing the child's wishes, interests and desires in the procedure.

If one summarises changes to the childhood and youth welfare law, one establishes that the German legal system adheres to the comprehensively formulated claim to secure the parent-child bond and create a protective framework that allows parents to autonomously cater to the right of their children and teenagers to support and education. This is demonstrated in separation and divorce law where the legislator has abandoned the institutional concept of family in view of current social developments, in order to even more clearly and with amended instruments, cater to and preserve the prioritised parent-child bond, even after the separation or divorce of the parents.

The support of children in day care facilities as society's support of the parent's duty to raise their child

In the maintenance and flexible stabilisation of a comprehensive parent-child relationship, one has to differentiate between psycho-social offers and facilities in the child and youth welfare system which support parents in realising their child-raising and support duties. In specialist discourse, the view is increasingly held that expectations of child-raising have become more complex and demanding at the same time as parents have become increasingly burdened. Harnach recently expressed this view in the form of three theses and formulated them in the following way:

- ✓ "Thesis 1: the load on parents and teachers has risen in the course of social change" (2007, 63).
- ✓ "Thesis 2: Burdens today are perceived by family and school to be larger because the yardstick for assessing them has changed" (ibid 68).
- ✓ "Thesis 3: The capability of family and school to address burdens has been weakened" (ibid 70).

Wiesner was also of the opinion that "particular child-raising tasks can generally no longer be appropriately carried out by the family in its contemporary structure." (Wiesner, Rz.20, 25). Since Wiesner is considered to be the legal „forefather" of the German child and youth welfare law, his judgement bears weight. For this reason I cite a comprehensive passage from his relevant commentary on the child and youth welfare law: "The small family usual for today, in which only one child grows up can not give this child a life of playing and learning in a community, or the possibility of experiencing siblings or another group of the same age in their home environment. The necessary experiences must therefore increasingly be provided in the away from home environment by institutions (kindergarten). The manufacture of these experiences has the effect of better uniting family child-raising tasks and employment. However, one cannot derive a corresponding duty to child-raise on the part of the kindergarten from a constitutionally protected state right to child-raising. Kindergarten – in contrast to school – is not a primary state institution and although its sponsors have the right to impart educational and child-raising contents, they do not have a duty to raise children. Thus parents are not able to transfer their child-raising responsibility onto these institutions." (Wiesner 2006, § 1, Rz20, 25 – 26).

The German child and youth welfare law (KJHG) includes in § 24 a legal right to a place in a kindergarten: "A child has a right to attend day care from the end of their third year until they enter school. The body responsible for the public youth welfare has to ensure that an appropriate number of full-time spaces or supplementary support from child day care is available for this age group." (§ 24, SGB VIII).

The contemporary debate on the supervision of children in day care facilities includes the following topics (and the request that kindergarten spaces be created for children under three):

- ✓ Many politicians demand that the attendance of children over three at kindergarten should be made compulsory. In this way, children from families with a migration

background and also from families with considerable problems could be reached early by the social education program. (see „Körting für Kita-Pflicht ab drei Jahren." In: Die Morgenpost vom 21. April 2007, S. 14).

- ✓ These attempts to build up early support for children have led to improvement in the education and further qualification of the educational professionals as well as to the introduction of quality standards in the German kindergarten Gütesiegel in 2005 (see: Rainer Woratschka: Mehr als eine Spielecke. Erziehungswissenschaftler kritisiert mangelhafte Qualität in Kindergärten. Aus: Der Tagesspiegel vom 20.4.07, Seite 4).

How is the actual nucleus of the welfare system, understood as the exchange between the receivers and givers of welfare, conceptually and technically organised?

The conception of the office of state watchman

In the German youth welfare system, one has refrained from conceptually burdening the office of state watchman with overwhelming punishing-controlling elements. Thus, in the past, voices were silenced which demanded a comprehensive house visit or duty to indict in cases where child welfare was endangered. Furthermore, the office of state watchman which is immediately put onto a child on the basis of concerns voiced has been criticised for the probability that it will cause significant stigmatisation. Since the child's right to education is based structurally on the duty of his parents to educate him, it was laid down in existing child and youth welfare law, "when a child's well-being is on the margin of being concretely endangered, the parents, as bearers of the duty of care, are addressees of the watchman office's operations" (Wiesner 2006, § 1, Rz 25, 27). In § 27 "assistance to educate" this basic decision is made definite in the following words:

"(1) A person who has right of care has a right to help with the raising of a child or teenager (help to educate) if the well-being and education of the child or teenager is not ensured and assistance is suitable and necessary for his development". According to competent expert understanding, an assisting relationship is thereby established between the person with the duty of care and the youth office. This should not take the form of a higher-order invasion of the state, but rather the model of a service offered between equals. If one equates the "right" mentioned in the legal text of the person with duty of care to child-raising assistance, then the person with duty of care has an "individual right to state services" (Wiesner § 1, Rz 17, 24).

This is not intended to allow all people with a duty of care involved in child-raising per se access to child-raising assistance. In real terms, a right to the assistance (need for education) needs to be ascertained in a legal-administrative sense in every individual case. The child and youth welfare law includes in §§ 28 to 35 a catalogue of types of assistance, which are characterised as the following:

- Child-raising advice

- Social group work
- Level of education, care helper
- Social-pedagogic family help
- Education in a day group
- Full-time care
- Education in a home, other forms of supervised living
- Intensive social-pedagogic individual supervision

When a right to assistance has been ascertained, the specific type of assistance needed as well as the services required by it should be established: "Assistance to educate includes in particular the granting of educational and therefore associated therapeutic services. It should, according to need, include education and occupational measures (§ 27 SGB VIII).

The prevalent basic understanding of an equality-based communicative process between those involved is justified by Wiesner in the following way: "Assistance should be chosen that, according to the specifics of the case in particular, offers the best chance for the development of the child or teenager. This depends not inconsiderably on the attitude of the parents and the child or teenager, since the evaluation of need, the choice of assistance to suitably address this need as well as, in view of the ascertained need, concrete development of a common clarification, advisory and decision process with experts and the addressed service follows..." (Wiesner 2006, § 27 Rz 30, 419). § 36 SGB VIII includes conditions for the generation of a written assistance plan, "it ascertains, among other things, need, the type of help to be provided as well as the necessary services". In the context of this procedure for assistance, all involved should "check regularly if the chosen sort of assistance continues to be suitable and necessary" (§ 36 SGB VIII).

The design principles of the German welfare system

The central task of youth welfare is performed by the youth office in the form of a specialist office. The youth office is at the centre of an apparatus which co-ordinates different instruments of action.

In the German youth welfare system, the youth office is the centre for activation where all legally determined tasks and services are carried out. "According to SGB VIII, every responsible local body sets up a youth office to observe 'tasks' following § 69 Abs. 3. One assumes from this youth office that...all local child and youth welfare tasks must be observed in a uniform office. Behind this central and recurrently proved organisational principle of the German child and youth welfare law, is the 'unity of youth welfare': the fitting deliberation that it is best for young people and their families when all tasks of child and youth welfare 'exist [undifferentiated] in one place' and are not 'sprinkled' over numerous offices and officials..." (Reinhard J. Wabnitz: Grundkurs Kinder- und Jugendhilferecht für die Soziale Arbeit. München – Basel 2007, S. 123ff.).

The youth office initiates the provision of assistance and services which take the form of mobile, partly stationary and stationary measures in a differentiated system. The central maxim for action is to reach children and their parents at the earliest possible time, before the well-being of the children is endangered. The youth office functions as an independent social pedagogic authority and is responsible for the provision of assistance to raise children when this is allocated by the state. It does not have its own child-raising function. Moreover, it has second place after the constitutionally protected precedence of parents.

The state, as employer of the socially designed youth welfare, determines the activity of youth welfare in accordance with such constitutional principles as participation of those addressed, providing those who have a right to it with a legal claim, the provision of data protection, the principle of written applications etc. In the legal text, there is a preponderance of vague legal terms which enable technical and situation-specific, individual interpretations. Characteristic of the German child and youth welfare system is its provision of services through private sponsors which are legally anchored in their right to be active. According to German legal understanding, the right of parents to be autonomous may only be interrupted by the law-court. However, even in this case it has been established that: "When the parental right to raise their children is taken away because the well-being of their children is endangered, there is no expectation that the state is responsible for raising these children. Moreover, the state appears in the form of family judge as organiser and negotiator which exchanges the subject of custody and introduces a custodian or carer in place of parents...He carries out his task "in place of the parents" under private law (Wiesner § 1, Rz 24, S. 27.).

These special principles of the current German child and youth welfare law are easier to understand when one views them against the conditions of the previously valid youth well-being law. Following a discussion phase of 20 years, this old law was replaced by the new child and youth welfare law in 1990.

Table 2
Overview: old and new youth welfare law in the Federal Republic of Germany

Old law	New law
The state as intervening body	The state as provider of services
Initiated by noticeable behaviour on the part of the child	Initiated by an upbringing inconsistent with the well-being of the child
Intervention of the state means tearing the family apart	Intervention of the state means prioritising preventative, supportive and mobile help that strengthens the family
The state replaces those with the duty of care to raise children	The state's task takes on second rank after the rights and duties of parents, as a rule it assists at the request of parents

Assistance is provided to parents	Parents have a right to assistance with raising their children
The provision of help is decided by a youth welfare worker	The provision of help as the result of a help plan contributed to by those who have a right to child-raising, the child or teenager, specialists and other professions

Source: Author's study.

The fundaments of modern child and youth welfare in the German legal system are as follows:

- ✓ Services instead of intervention.
- ✓ Prevention instead of reaction.
- ✓ Democratisation instead of patronage by the state.
- ✓ A right to youth welfare services.
- ✓ Plurality: a variety of responsible bodies, contents, methods, co-operation of public and private sponsors.

Is the system established as a 'learning system' which has immediate access to scholarship and research so that it can also set itself up and renew itself independently from its state constitution?

The academic qualification of future social workers and pedagogues

Since the beginning of the seventies of the 20th century, potential social workers and pedagogues have been educated at technical universities. As independent institutions for teaching and research, these technical universities were founded in the German higher education system at the same time as the academic degree social work/social pedagogic. In the meantime they are considered to be good, academic educational and research facilities which are increasingly approaching the level of Universities. For the professional history of social work, the founding of this degree at academic educational and research facilities marks a significant turning point in accessibility to the latest developments in research and knowledge. Although education at a technical university follows the pattern of a teacher-student lesson, academic study enables every graduate a phase of independent and extensively self-directed interaction with the knowledge thus far gathered by society.

Parallel to the founding of the degree social work/pedagogic, the founding of an independent university degree, "diploma pedagogue", followed. Whereas previously the subject pedagogic could only be studied part-time as a Masters when not part of a teaching degree, an independently conceived educational curriculum – independent from a teaching degree – arose, at the end of which the graduate had the general qualification of pedagogue. This trend to become more scientific and independent in the canon of the recognised university disciplines was accompanied by an enormous recognition and knowledge growth in the pedagogic discourse. In the meantime, the faculty of child education had also come out with a differentiated catalogue of teaching and learning programmes. Through this, the complex course "child-raising" was decoded in steps and included in the curriculum and syllabus to promote competences. In 2005, Tschöpe-

Scheffler presented an overview of concepts established in the interim in parental education and critically analysed 17 different individual approaches.

The necessary anchoring of child and youth welfare in established academic and research systems existing in the country can be considered accomplished by the German child and youth welfare since the 70's of the last century. On this basis, it should be able to react situation-based and flexibly and be responsive to newly appearing social requirements in the role of a learning system. In the following section, this should become concrete through the example of the newest amendments to child and youth welfare law.

The reaction of youth welfare to contemporary cases where the well-being of a child is threatened in their role as a learning organisation

In German child and youth welfare law paragraph § 8a was added to SGB VIII. The legal text carries the title "The obligation to protect in the case of a child's well-being being endangered". This extension of the youth welfare law was accompanied by an intensive debate into the numerous impending cases of serious endangerment of child well-being. At the same time constellations of cases in which the youth office was already active but in which significant damage to the child or their death had resulted were taken up by the media and sensationally publicised. These serious and unfortunate circumstances directed attention to youth welfare as a specialist agent which was not reflecting its state-legal constitution. It was questioned if the basic attitude of learning and researching on the part of the specialists and the faculty discourse was prepared, and in a position, to carefully inquire into the situation that had occurred and to seek out a response through learning and research.

Before the newly added paragraph § 8a came into force, there were principally two possible moments at which the activation of a community responsible intervention could take place in the constitutionally protected sphere of parental child-raising autonomy: "An upbringing inconsistent with the well-being of a child" is the formulated intervention point for youth welfare and "the endangerment of the well-being of the child" is intervention point for the activity of the family court.

The basic idea behind this differentiated system of public reaction to the endangerment of child well-being includes the concepts of low-threshold and prevention. State action should not follow on the first and acute endangerment of the child, but should already ensue when (merely) "an upbringing (is) inconsistent with the well-being of the child". Parents can presumably be reached by plausible arguments in a less drastic situation – they can be won over to work with welfare before relatively radical action needs to take place. In any case, an empirical investigation into the practical application of the child and youth welfare law showed that using this model the provision of child protection had become, in practice, a sort of "vacancy". In his textbook contribution in 1992, Schone had already pointed out this omission. He contextualised the legal concepts regulating intervention within the willingness/ability of parents to take advantage of the child-raising assistance offered by youth welfare:

Table 3
Overview: The non-provision and endangerment of the child's well-being and the capability/readiness of parents to take on help (in child raising)

	Parents want to and can take on help (child-raising)	Parents do not want to or are not able to take on help (child-raising)
An upbringing consistent with the well-being of the child or teenger is, only' not provided	A	C
The well-being of the child or teenager is endangered	B	D

Source: Author's study.

In the cases designated as A and B, the entire instruments of youth welfare intervene to provide a partner and service oriented action and assistance offer. Even if it is estimated in the case of B, that the well-being of the child has already been endangered, a further criterion for decision-making remains – namely, that parents must be willing and prepared to work together with the youth office. Youth welfare can offer the parents assistance from their variety of mobile, partly stationary or stationary facilities and ascertain the services effective for the particular case through a co-operatively designed help action plan.

In contrast, case C requires a completely different response. Also here it must be supposed that an upbringing not consistent with the well-being of the child has been provided. In this case, the readiness of the parents to assist in the necessary help and intervention process is missing. From the perspective of youth welfare, this is a situation which must be described as drastic, since a more or less damaging situation for the child must practically be accepted. According to the reform where § 8a German law is valid, a summoning to court by youth welfare can first take place when the clearly marked limit has been exceeded, that is the well-being of the child has been endangered. So when is an already problematic situation for the well-being of the child so far advanced that it counts as endangerment of the child? Apart from the fact that this question is, from a technical perspective, difficult to answer, there was the further problem that the youth office was thereby, in its original sphere of responsibility, duty-bound to inactivity. Moreover, a structural distance has developed in the co-operation between youth offices and the family court, since the predominant organisation of a co-operative partnership with the parents is permanently destroyed through the activation of the court– at least from the perspective of the youth office.

The fore-mentioned "construction deficiency" of the child and youth welfare law has already been sufficiently discussed in the technical discourse, although the binding child and youth welfare development law first became effective in 2005. Necessary decision-making and pressure to take action clearly arose on the basis of an increase in serious cases of child well-being being endangered. These, recognised in the

specialist discourse as regulation deficiencies, have now become permanently effective on the level of society as a whole.

Since approx. 2003, dramatic cases of child abuse and neglect have been reported in the German media repeatedly and in a prominent position. Even the responsible authorities have registered an increase in damages to child well-being. As a result, in February 2007, in the "concept for child protection networking" presented by the senate administration for education, science and research Berlin, it was ascertained that: "The police registered an increased of neglect (injury to the care or child-raising duty according to § 171 StGB) from 255 cases in 2004 to 472 cases in 2005, as well as an increase in child abuse (§ 225 StGB) from 398 (2004) to 472 (2005) cases".

In paragraph 1, the programmatic basic organisation of the newly added § 8a in the child and youth welfare law becomes clear: "If significant reasons to engage on behalf of the well-being of a child or teenager become known to the youth office, it has to evaluate the risk of endangerment in co-operation with numerous experts" (§ 8a, SGB VIII). According to Wiesner, this and the further claims of these paragraphs make the youth office into an independent social pedagogic authority fitted with the necessary independence to run a clarification process, "which begins with the seeking out and evaluation of information to weigh up the risk of endangerment and follows with a prognosis for the situation by playing different possibilities for action against each other. Finally, it settles on the most suitable concept for protection" (Wiesner 2006, § 8a, Rz 2, 102). The basis for this is an initial situation in which "the concrete regulation of steps of action, authority and duties, was up to now lacking and which put the youth office in the position of making a suitable and necessary decision for the protection of the child. In this way the youth office was supplied with a (reactive) right to seek out information...that was not legally settled until the introduction of § 8a..." (Wiesner § 8a, Rz 12, 106).

In the German youth welfare system, private sponsors are organised as non-state agencies with a strong, independent position. Against this background, it is worth noting that the newly formulated obligation to protect in § 8a is expressly related to their field of activity: "In agreement with the sponsors of facilities and offices which provide services according to this book, it has been agreed that their experts must act suitably according to the protection obligation of paragraph 1 and assign an experienced specialist to evaluate of the risk of endangerment. In particular, the expert engaged when help is taken on is compelled to work with the person with duty of care or duty to raise the child if they consider this to be productive and inform the youth office to deflect the endangerment".

Wiesner explicitly stressed that private sponsors can not escape such agreements through their "right to autonomous action": "Their autonomy is moreover limited through the well-being of the child. Besides, they take on private legal protection measures" (Wiesner § 8a, Rz. 31, 113).

If one views the co-operation between youth office and law court from the perspective of the new regulation in paragraph § 8a, the legal text contains the following instructions in addition: "If the youth office considers the activation of the family court to be constructive, then it should convene the court; it may also do this when the person with

duty of care or duty to child-raise is not prepared or in a position to co-operate in the evaluation of the risk of endangerment" (§ 8a, Abs. 3).

The co-operation between youth office and court is newly regulated through this directive in the sense that when a concretely endangering of the child's well-being is anticipated, the court must be brought into play by the youth office. When the people with duty of care and right to child-raise refuse to co-operate, the youth office must call upon the far-reaching medium of the court as early as the stage of analysing the risk of danger.

At the same time, the youth office is obliged to take the endangered child under its protection: "If danger threatens and the decision of the court can not be waited for, the youth office is compelled to place the child or teenager under its protection" (§ 8a, Abs. 3, Satz 2).

If one summarises the German child and youth welfare law including the additional § 8a, conceptual update to child protection, it can be characterised in the following three points:

1. The activation of youth welfare is to be found on the side of the child and his right to secure his well-being in the sense of "realisation of individual justice for the child" (Harnach 2007, 189).
2. Its fundamental assistance orientation is developing into an independent social-pedagogic specialist centre which has authority over its own evaluation criteria and also its own concept of action when there is the suspicion that child well-being has been endangered.
3. On this basis, the youth office creates the necessary freedom for itself in case it becomes necessary to face parents securely and authoritatively.

On the basis of this constitutionally determined framework, the Berlin senate has bindingly established "a concept for a child protection network". In an extensive report of their position from February 2007, the basic interests of this concept were described as being the following:

- ✓ "A network for early recognition and early support is being created in the health system.
- ✓ Natal clinics, gynaecologists, the child and teenager health service, the regional social service of youth welfare, the social medical service and institutional paediatricians work with a comprehensive, binding indicator model which recognises the risk of endangerment early on.
- ✓ In order to – alongside the existing help offers – be able to react to special problem cases, the project 'Looking for parental assistance' has been started – preventative child protection before and after the child's birth.
- ✓ Berlin-wide unified standards and criteria have been developed to regulate how home visits to check health and required assistance are carried out.
- ✓ Binding co-operative agreements secure the reliability and systematic co-operation of all involved in the network; intervention instances and procedures have been agreed upon in all districts.
- ✓ So that a need for assistance can be reported and received by responsible bodies, citizens, parents and other agents, a Berlin-wide child protection

hotline available round the clock will be established in the first half of 2007. This hotline will be connected to the child emergency service.

'Co-ordination areas for child protection' have been established in the youth and health offices (KJGD) of the districts" (Senatsverwaltung für Bildung, Wissenschaft und Forschung (Ed,): Jugend in Berlin. Konzept für ein Netzwerk Kinderschutz. Kinderschutz verbessern – Gewalt gegen Kinder entgegenwirken. Berlin, Februar 2007).

Conclusion

The German child and youth welfare system is constituted by a complex of institutions and legally regulated action procedures which should be utilised in a differentiated system by those agencies involved. Even after the latest amendment to the law, the primary right of parents to raise their children remains untouched.

The first chance for intervention on the part of public youth welfare in the protected family system arises through the right of the person with duty of care to assistance in raising their children, in so far as an upbringing inconsistent with the well-being of the child has been provided. However, in order to establish a right to assistance, every individual case must be checked in a legal-technically regulated procedure to ascertain if the pre-requisites for access to child-raising assistance have actually been fulfilled. The relevant laws anticipate, for this long-term procedure, the communicative exchange between those entitled to help and the representatives of youth welfare according to the partner model of co-operation. This model has come up against boundaries recently through the publication of the clearly Germany wide pile of coming cases of massive endangerment of child well-being.

The intervention moment in the youth welfare apparatus, newly adopted into the family system in 2005, emphasises the child and his right to secure his well-being. In the future, an exactly defined series of steps should individually emphasise the thus far collectively described criteria governing the endangerment of child well-being and this should be documented - in the sense of an agreed upon co-operation of the different institutions and services. Assessments of the possible endangerment risk are made on the basis of these standards, and the necessary action plan is outlined. In so far as those with duty of care are not willing or able to support this process by taking on a degree of responsibility, the necessary pre-requisites for action are created through the instruments "place under protection" and "law court" and a background of more pressure. In the course of these changes, the focus moves from youth welfare and the law court to a more active, early implemented activation of the family and guardianship court. Even the procedure carers instituted by the court will become, on the basis of a changed constitution which will supposedly come into effect in 2008, more specialised and at the same time more comprehensively active. One can only hope that, as a result of development in the variety in the existing apparatus, that German child and youth welfare is sufficiently equipped for future developments.

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